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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,776	07/28/2003	Stuart D. Hellring	1673P1	5340

7590

11/22/2006

PPG Industries, Inc.  
Law-Intellectual Property 39S  
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EXAMINER

GOUDREAU, GEORGE A

ART UNIT

PAPER NUMBER

1763

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



Art Unit: 1763

1. This action will not be made final due to the new grounds of rejection.
2. Applicant's arguments with respect to claims of record have been considered but are moot in view of the new ground(s) of rejection.
3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 46-51, and 61-63 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of U.S. Patent No. 6,656,241. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following.


-The claims of US patent 6,656,241 fully encompass the subject matter, which is claimed in the present application.

5. Claims 36, and 52-60 are allowed.

Art Unit: 1763

6. Any inquiry concerning this communication should be directed to examiner

George A. Goudreau at telephone number (571)-272-1434.

  
George A. Goudreau  
Primary Examiner  
Art Unit 1763